

EXHIBIT E

Expert Report of Professor Barry Rubin

A. Professional Background and Qualifications

1. I am the Director of the Global Research in International Affairs Center at the Interdisciplinary Center (IDC) in Herzliya, Israel, and a professor at the IDC. I am also a senior fellow at the IDC's International Policy Institute for Counter-Terrorism. I hold a doctorate from Georgetown University, a master's degree from Rutgers University, and a bachelor's degree from Richmond College.

2. Throughout my academic career I have held a number of professorships worldwide, including a position at the Hebrew University, Israel, 1994-1995; visiting professor, Middle East Technical University, Ankara, Turkey (Summer 1995); and professor of Political Science, Bar-Ilan University, Israel (1995-1996). From 1994-2002, I was Deputy Director of the Begin-Sadat Center for Strategic Studies, Bar-Ilan University. More recently, I was the Seymour & Lillian Abensohn Visiting Professor in Israel Studies, American University (2005-2006).

3. In addition to these positions, I have served as a visiting fellow at several academic and policy institutes, including a National Defense Foreign Language Fellowship in Arabic (1977-78); a senior fellowship in Middle East Studies, Georgetown University Center for Strategic & International Studies (1978-1985); senior fellowship, Washington Institute for Near East Policy (1988-1991); senior fellowship and professorship, Foreign Policy Institute, Johns Hopkins University SAIS, (1986-1993); and a Fulbright fellowship, Haifa and Tel Aviv Universities (1990-1991).

4. I have been the recipient of numerous grants from a variety of institutions, including a grant from the U.S. Institute of Peace to study the Arab-Israeli peace process (1989-1991); a research grant from the Harry Guggenheim Foundation to study PLO policy (1990); a grant from the Leonard Davis Center, Hebrew University for research on U.S. Middle East policy (1993-1994); a grant from the Begin-Sadat Center at Bar-Ilan University for research on Israel's Middle East policy (1994-95); and three grants from Bradley Foundation, for a study of American allies (1998-1999), on armed forces of the Middle East (2000-2001), and on Anti-Americanism (2002-2003).

5. At present, I am the editor and publisher of the *Middle East Review of International Affairs*. I am also a member of the editorial board of the *Middle East Quarterly*. I edit the Palgrave Macmillan's *Middle East in Focus* series and the Taylor & Francis Middle East military/strategic series. I am also a syndicated Middle East columnist for the *Jerusalem Post*.

6. Palestinian politics, the PLO and the Palestinian Authority ("PA") have been for years and remain today a central focus of my research, writing and teaching, and I have developed an extensive expertise regarding these topics. I have authored the followings works on Palestinian politics and the PLO: *The Arab States and the Palestine Conflict*, Syracuse University Press (1981); *Cauldron of Turmoil: America in the Middle East*, Harcourt, Brace, Jovanovich (1992); *Revolution Until Victory?: The Politics and History of the PLO*, Harvard University Press (1994); *The Transformation of Palestinian Politics*, Harvard University Press (1999); *The Tragedy of the Middle East*, Cambridge University Press (2002); *Yasir Arafat: A Political Biography*, Oxford University Press (2003); "Egypt

and the Palestine Question, 1922-1939," in *Essays on Israel and Palestine*, Wiener Library (1978); *The PLO's Intractable Foreign Policy*, Washington Institute for Near East Policy (1986); *The PLO - A Declaration of Independence?*, Washington Institute for Near East Policy, Policy Focus No. 8 (November 1988); *Inside the PLO: Officials, Notables, and Revolutionaries*, Washington Institute for Near East Policy, Focus No. 12 (December 1989); *The PLO's New Policy: Evolution Until Victory?* Washington Institute for Near East Policy, Policy Paper #13 (June 1989); "The Origins of PLO Terrorism," in Barry Rubin, *Terrorism and Politics*, St. Martins Press (1991); "The PLO After the Gulf Crisis," in Rob Satloff, *The Politics of Change in the Middle East*, Westview (1993); *The PLO Between Anti-Zionism and Antisemitism*, Hebrew University Sassoon Center (1993); "The United States and Iraq" and "The PLO and Iraq" in Amatzia Baram and Barry Rubin, *Iraq's Road to War*, St. Martins (1994); *The Palestinian Charter: Prospects for Change and Options for Israel*, BESA Center (1996); "Misperceptions and Perfect Understanding: The US and the PLO," in Avram Sela and Moshe Ma'oz, *The PLO and Israel, From Armed Struggle to Political Settlement*, St. Martins Press, (1997); "Israel, The Palestinian Authority, And the Arab States," *MERIA Journal*, Vol. 1 No. 4 (December 1997); "After Arafat: Succession and Stability in Palestinian Politics," *Middle East Review of International Affairs*, Vol. 2 No. 1 (March 1998); *Israel, The Palestinians, and The Arab States*, BESA Center (1998); "The Future of Palestinian Politics: Factions, Frictions, and Functions," *Middle East Review of International Affairs*, Vol. 4, No. 3 (September 2000); "The Palestinian Movement: From Catastrophe to Disaster," in Robert O. Freedman *The Middle East Enters the 21st Century*, University of Florida Press, (2002); "Geopolitique du territoire controversé et d'un

eventual Etat Palestinien," in *Frontieres Palestiniennes Regards Croises des Geographes*, Geographes Associes (2004); "The Decline and Fall of the Palestinian Nationalist Movement," in Barry Rubin, *Political Islam*, Vol. II, Routledge (2007); and "Israel and the Palestinians," in Robert O. Freedman, *Contemporary Israel*, Westview Press (2008).

7. A true copy of my curriculum vitae, which lists my publications over the past ten years, is attached hereto as Exhibit A.

8. During the past four years I testified as an expert witness in *Calderón-Cardona, et al. v. Democratic People's Republic of Korea, a.k.a. North Korea, et al.*, Civ. No. 08-1367 (D.P.R.), submitted an expert declaration in *Saperstein v. Palestinian Authority*, 09-mc-00619-SLT-ALC (E.D.N.Y.) and submitted a report prepared for the Canadian Ministry of Justice (without testifying) in an immigration case.

B. Nature and Basis of This Report, Materials Considered and Compensation

9. I have been retained by counsel for the plaintiffs in *Ungar v. Palestinian Authority*, Civ. No. 00-105L (D.R.I.) to testify as an expert witness to respond to certain testimony to be given by defendants' witnesses Glenn E. Robinson and Raja Shehadeh, which is set forth in the expert reports prepared by Messrs. Robinson and Shehadeh.

10. My opinions below, and those I will testify to, relate only to specific assertions contained in the reports prepared by Messrs. Robinson and Shehadeh. That I do not address other claims made by Messrs. Robinson and Shehadeh should not be construed to imply that I agree with any other assertions contained in their reports.

11. In preparing this report I have reviewed the Expert Report by Glenn E. Robinson and the Expert Report by Raja Shehadeh both dated October 15, 2010.

12. My opinion herein is based on decades of academic and professional studies and research, and monitoring of events in the West Bank and Gaza Strip though, *inter alia*, the Palestinian print and electronic news media, the official publications and websites of the PA and of the PLO and the PLO's various factions, and personal contacts and discussions with Palestinian political leaders and academics.

13. I am being compensated for my work, preparation and testimony in this case as follows: for research and preparation of this report - \$6500; for testimony and testimony-related preparation - \$110 per hour.

C. Messrs. Robinson and Mr. Shehadeh Mischaracterize the Control That the PA and PLO Had Over Most of Gaza and Many Areas in the West Bank in the Years Prior to the Ungars' Murder and Mr. Robinson Mischaracterizes the Relationship Between the PA/PLO and Hamas During that Period

14. Messrs. Robinson and Shehadeh assert that the PA and PLO had little or no control in the West Bank and Gaza between 1994 and June 1996 (when the murder at issue took place) and Mr. Robinson claims that the PA and PLO violently repressed Hamas during this period. Both of these assertions are erroneous.

15. In September 1993, the PLO and Israel signed the Declaration of Principles (better known as the Oslo agreement) which provided for the establishment of a Palestinian Authority (PA) to rule the territories being turned over by Israel. This was confirmed and implemented by the PLO Central Council. Yasir Arafat, head of the PLO, was named as the PA's leader and chair of all its governing committees.¹

¹ New York Times, October 13, 1993; Haaretz, October 17, 1993.

16. The details for implementation were provided by the May 4, 1994 Israel-PLO Cairo agreement² which enumerated the PA's role and responsibilities. On July 2, 1994, PA operations commenced with Arafat's return to the Gaza Strip. The PA took control over most of that area and the town of Jericho on the West Bank.

17. Next came the September 1995 Interim Agreement which gave the PA control over the West Bank cities between September and November 1995. The one exception was Hebron, whose fate was not fully settled until 1996 and implemented in January 1997. By the end of 1995, the West Bank consisted of three zones: Area A, the cities, under full PA control; Area B, the 450 villages, under PA police control but where Israel could intervene for security reasons; and Area C, governed by Israel and including unpopulated areas, military bases, key roads, and Jewish settlements. At this point, the PA partly or fully controlled about 30 percent of the West Bank with 99 percent of the population.³

18. In terms of its internal domestic powers over the territory and population in Area A and most of Gaza, the PA was a regular government, responsible for all aspects of life. In the words of the Cairo Agreement: "The authority of the Palestinian Authority encompasses all matters that fall within its territorial, functional and personal

² Israel Foreign Ministry, Israel-Palestinian Interim Agreement on the West Bank and Gaza Strip, September 28, 1995 (Jerusalem, 1995). Annex 2, "Protocol Concerning Elections."

³ U.S. Information Service, Official Text of the Wye River Memorandum, October 23, 1998. The complex arrangements included: the transfer of 12 percent from Area C to Area B, 1 percent from Area C to Area A, and 14.2 percent from Area B to Area A. This would leave the following division of territory: Area A, 18.2 percent; Area B, 24.8 percent; and Area C, 57 percent.

jurisdiction...."⁴ Arafat took this power seriously and insured that his will was supreme on every matter. Sometimes (see below), however, his power was exercised precisely by letting things happen that he wanted to occur but for which he did not want to take responsibility. This applied most of all to his use of violence against Israelis.

19. According to the Cairo Agreement: "The Palestinian Police shall be deployed and shall assume responsibility for public order and internal security of Palestinians," in the PA-ruled areas.⁵ The Cairo Agreement also provided: "In order to guarantee public order and internal security for the Palestinians of the Gaza Strip and the Jericho Area, the Palestinian Authority shall establish a strong police force...."

20. Arafat built a multiple network of security forces to ensure his control over the territories he ruled. These forces were strong and numerous. Indeed, the PA-ruled territories had the highest number of security force members to population of any entity in the world. They were only "weak" when Arafat restrained them for his own purposes. And when he unleashed them they, along with other PA institutions, were capable of easily suppressing all opposition.

21. During the negotiations that established the PA, Arafat had demanded the agreement be changed to increase the number of Palestinian police by 400 percent, from the 6,000 allowed in the Oslo agreement to 24,000. Israel accepted all of his demands on

⁴ <http://israelipalestinian.procon.org/view.background-resource.php?resourceID=923>

⁵ The full text can be found at <http://israelipalestinian.procon.org/view.background-resource.php?resourceID=923>

this point. On top of this, Arafat secretly equipped even more men than permitted and provided them with weapons beyond what Israel had agreed to let them have.

22. Moreover, the PA had multiple security forces which, if and when ordered to act, could have overwhelming control in these territories.⁶ They far outnumbered any competing forces, were better equipped, and had the requisite ruthlessness to crush any opposition. Nor is that all. The PA had far superior financial resources and could depend on international and Israeli cooperation in any matter for which that was needed.

23. Security forces were a key foundation for the PA's power and the state-building process.⁷ They saw themselves as a revolutionary vanguard serving Arafat, the PLO and the PA but certainly not subordinate to courts, the Palestinian Legislative Council, or any system of laws. Arafat incorporated some officers into the political leadership—notably Nasir Yusuf, Mohammed Dahlan, and Jibril Rajoub – while restricting others to purely professional duties.

24. The fact that the PA spent \$500 million annually on the police, a high proportion of its foreign aid, showed those services' priority.⁸ Individual earnings were

⁶ For a study of the PA security forces, see Gal Luft, THE PALESTINIAN SECURITY SERVICES: BETWEEN POLICE AND ARMY, MERIA Journal, Volume 3, Number 2, June 1999, <http://meria.idc.ac.il/journal/1999/issue2/jv3n2a5.html>.

⁷ In practice, these constitute the PA's military establishment.

⁸ Sara Roy, "Report from Gaza, Alienation or Accommodation," *Journal of Palestine Studies*, Vol. 24, No. 4 (Summer 1995), pp. 73-82, and Graham Usher, "The Politics of Internal Security: the PA's New Intelligence Services." *ibid.*, Vol. 25, No. 2 (Winter 1996), pp. 21-34.

not lavish--unmarried privates got \$450 a month, with \$50 more for married men and an extra \$25 per child--but were at times supplemented by graft.

25. Asked why he needed so many security forces, Arafat replied: "The Syrians have 14, the Egyptians have 12. I only have 6 to protect me."⁹ While Arafat created different units in order to undercut any officer who might challenge his rule, each group also had distinct purposes, handling the tasks of police, national security, military, and intelligence agencies.¹⁰

26. In many but by no means all cases, commanders were career military men from Palestine Liberation Army (PLA) units abroad who were fairly interchangeable and totally dependent on Arafat's patronage. At the top stood Major General Nasir Yusuf, a tough law-and-order man who commanded four units: national security, intelligence, civil defense and civil police. While a member of the Fatah CC, Yusuf did not have political ambitions and thus was both a good and safe choice from Arafat's perspective.

27. Reporting directly to Arafat were Force-17 (his personal bodyguard) and the putatively counter-terrorist Preventative Security Service. There were also two proto-army units: military intelligence, and the naval police.

⁹ Shiham Bahatia, "Arafat's Torturer's Shock Palestinians" Guardian Weekly, September 24, 1995.

¹⁰ One way to put it, in American terms, is that the civil police corresponded to a regular police department; Preventative Security to the Federal Bureau of Investigation; Force-17 to the Secret Service; military intelligence to Army intelligence; and the naval police to the Coast Guard. This is not to say these units were as democratic or effective as such counterparts but merely that the existence of different forces was not so absurd.

28. The most elite service was the Preventative Security Service, led by Colonel Muhammad Dahlan in Gaza and Colonel Jibril Rajoub in the West Bank. Both men were veteran insider Fatah cadre who had been in Israeli jails, 4 years for Dahlan followed by deportation; 17 years for Rajoub. They had a good understanding of both local conditions and of Israel. Dahlan and Rajoub were far more ready to use initiative than the PLA officers, since they had their own base of support and came from an unhierarchical, grassroots revolutionary movement.

29. Both men were ready for militant actions to assure the birth of a Palestinian state. Rajoub threatened to shoot Jews who came into the Palestinian part of Hebron with ill intent and warned, "Our people have the right to resist occupation."¹¹ In 1995 when tensions were high, Rajoub himself was detained by Israeli border police, who confiscated his identity card and ordered him back to PA territory.¹² Rajoub also stated: "We've never had a dispute with Hamas or anyone else regarding the principle of resistance [armed struggle] In all our agreements with brothers in Hamas and other factions, we always insist that resistance is our legitimate right."¹³

30. PA forces also tried to smuggle in weapons or filch arms from Israel's army—including small anti-aircraft missiles—to prepare for a possible future confrontation.

¹¹ Jerusalem Post, March 17, 1998.

¹² Qol Yisra'el, October 19, 1995 in FBIS, October 20, 1995.

¹³ Al-Jazeera TV (Qatar), January 11, 2006, <http://www.memritv.org/clip/en/999.htm>

Methods included sending a boatload of guns across the Dead Sea from Jordan and a \$3,000 bribe to an Arab former soldier in Israel's army to steal equipment.¹⁴

31. This accurately describes the situation in the 1990s. Arafat reserved the right to stop attacks for brief times when it served his strategy but then would return to his general approach of using them to achieve his goals.

32. Arafat was given ample help and encouragement to control terrorism. His forces received training and equipment from European countries and the United States.¹⁵

33. But Arafat deployed his forces against those he regarded as enemies and threats: Not those attacking Israel but those criticizing him. Human rights' advocates and those exposing corruption were quickly silenced,¹⁶ arrested,¹⁷ tortured,¹⁸ and imprisoned.¹⁹

¹⁴ Ma'ariv, March 1, 1998; Yediot Ahamot, March 25, 1998.

¹⁵ See, for example, Ha'aretz, April 4, 1998.

¹⁶ New York Times, May 6, 22, 27, and 28, 1996. He was released shortly after his family wrote a note saying he had been misquoted. Later, though, Sarraj confirmed that the quotes were correct.

¹⁷ Interview.

¹⁸ New York Times, June 11, 1996; Palestine Report, June 14 and 28, 1996; LAW, press release, June 12, 14, 16, 17, and 27, 1996; Washington Post, June 27, 1996.

¹⁹ Palestinian Society for the Protection of Human Rights and the Environment (LAW). LAW, press release, March 12, 1998. The Palestinian police also abducted and held for a day an Israeli Arab citizen, Bassam Id of the B'tzelem human rights organization on January 3, 1996, after he had helped write reports critical of the PA. New York Times, January 4 and 19, 1996. Jibril Rajub responded to Id's human rights' work by accusing him of being an "Israeli police agent." Jerusalem Post, August 27, 1995.

34. The point is that the PA security forces were not too weak to control Hamas or others committing terrorism. They simply didn't try to do so at all except for rare occasions. This strategy was designed because Arafat saw Hamas and attacks on Israelis as useful tools. Letting Hamas and others wage such attacks allowed Arafat to claim credit for continuing the armed struggle; built popular support among Palestinians; kept Hamas cooperative on other issues; and put pressure on Israel to make additional concessions.

35. Arafat had many tools he could have used to push Palestinians toward a moderate course and to reduce violence. These included his popularity; legitimacy as the national leader; command of the PLO, Fatah, and the PA; ability to reward friends with money or jobs; and the threat of punishment.

36. Precisely because they saw their job as assuring law and order as well as the PA's dominance, many security officers wanted to control Hamas and other radical groups. They were restrained mainly by Arafat himself.

37. For example, when Major General Nasir Yusuf arrived in Gaza to run the main police force there in April 1994, he made a one-month agreement, which he hoped would become a permanent arrangement, in which Hamas promised to stop killing alleged collaborators and to leave such matters to the police. Soon, however, Hamas returned to its old ways, killing alleged collaborators. Yusuf warned, "Those who attack our people are attacking our right as a national authority." He demanded Hamas surrender those responsible or he would catch and punish them even if it cost 100 police

officers' lives. Hamas ridiculed and ignored Yusuf, who was helpless since his leader did not let him take the steps he saw as necessary.²⁰

38. Even Hamas operatives who were involved in terrorism while being PA employees were allowed to continue their activities until Israeli pressure for their capture became irresistible. Such was the case with the leader of a Hamas cell that organized 1997 suicide bombings killing 21 Israelis, Abd al-Rahman Zabin, a Palestinian policeman in Nablus.²¹ In violation of agreements with Israel, Hamas' cadre were recruited, sometimes from prison, into PA security forces. When they returned to violent activity, this was not grounds for their being fired or punished.

39. The agreements with the PLO and PA had been based on an assumption that Arafat would view anti-Israel violence as threatening his interests because it would delay an end to the occupation and a Palestinian state's birth. Instead, Arafat continued to see violence as one of his most valuable political tools. He did not try to dissuade other Palestinian leaders or groups from believing that terrorism would advance the effort to destroy Israel or force it to make peace on their terms.

40. Since Arafat repeatedly told his colleagues and people that Israel did not really want peace, Palestinians would believe only attacks might make it yield. His hints that all Palestine could or should be theirs justified violence even if it damaged the peace process.

²⁰ Jerusalem Post, June 7 and 10, 1994.

²¹ Yediot Aharnot, March 6, 1998.

41. As a result of this approach, in 1995 alone, there had been 33 major successful Palestinian armed attacks on Israelis that caused casualties. Hundreds more such operations had been foiled by Israeli security forces but very few, if any by PA security forces.²²

42. In fact, on the brief occasions that the PA decided de-escalation was needed as well as during the few days that Western, especially U.S., leaders visited the territories, the PA was able to deliver calm without difficulty. These occasions were in late 1994, so as not to interfere with Israel's withdrawal from Palestinian towns; March 1996, after Arafat stood aside during a major Hamas terror campaign and Israel threatened retaliation against him; November 1996, following a major clash following the opening of the Temple Mount tunnel, when Israel warned it would unleash its army against the PA; November 1997, after pressure forced him to counter an upsurge in Hamas attacks that took place because Arafat had so coddled Hamas's top leader (see below); and in 2002, after Israel's Operation Defensive Shield recaptured West Bank towns. Hamas did not offer serious resistance to the PA on any of these occasions but each such effort by Arafat only lasted for a few weeks before he let attacks resume.

43. Once his short-term aims had been accomplished, Arafat had less incentive to stop terrorism and Hamas, eager to return to action, had less reason to believe he would crack down on them.

44. In early 1996, for example, a major upsurge in Hamas attacks followed the Israeli killing of the most effective Hamas terrorist, Yahya Ayyash, nicknamed the

²² International Policy Institute for Counterterrorism Chronology, <<http://www.ict.org.il>>.

"engineer" by the Israeli press. Ayyash had made the bombs for a series of deadly attacks on buses in Israel—including those in July, August, and October 1994—and Israel had information that he was planning more. Yet Arafat made no attempt to discourage, much less arrest or punish him.

45. Indeed, when Israel said that it knew Ayyash was in Gaza and asked Arafat to take action, Arafat insisted he was in Sudan, recalled the head of Israel's security agency, Carmi Gilon. "They did nothing against him, even though we gave [Arafat] intelligence" about Ayyash's activities and whereabouts.²³

46. Muhammad Dahlan, head of Preventive Security in Gaza, confirms this assertion: "I told Hamas to hide Yehya Ayyash....We provided protection to the Hamas military leadership."²⁴

47. Israel finally took matters into its own hands, in January 1996, and killed Ayyash in Gaza, where he was safely living under Arafat's authority. Arafat personally paid a condolence call to Hamas leaders to praise Ayyash and called him a "martyr" for the Palestinian cause.²⁵

²³ Interview with Carmi Gilon.

²⁴ <http://www.memritv.org/clip/en/1008.htm>

²⁵ Voice of Palestine, January 6, 1996, in FBIS, January 7, 1996; New York Times, January 6 and 7, 1996; Mideast Mirror, January 8, 1996; Filastin al-Muslima, February 1996; and al-Hayat al-Jadida, July 21, 1996.

48. Hamas launched a wave of terrorist attacks in late February and early March 1996, making that the bloodiest week of terrorism in Israel's history.²⁶ Responding to the violence, President Bill Clinton organized an anti-terrorist meeting of world leaders at Sharm al-Sheikh, Egypt, to pressure Arafat.²⁷ Behind the scenes, Clinton had been demanding for months that he arrest terrorists. Rather than do so, Arafat called Clinton's bluff and threatened to walk out of the summit.²⁸ Arafat got his way.

49. Belatedly, however, Arafat began a round-up of Hamas and Islamic Jihad activists. Yet once the immediate crisis had been defused, he released them without further punishment or incarceration. Arafat could stop the violence. He merely chose, almost always, not to do so.

50. Regarding the tunnel crisis of late 1996, Arafat stepped in to stop attacks only when one of Netanyahu's aides telephoned him and warned that if the shooting didn't stop, Israeli tanks would enter Nablus. Arafat quickly agreed to a cease-fire. Once Arafat decided to end the battle, the PA media replaced its call to arms and extolling of martyrs immediately with soothing messages that urged calm. The fighting immediately ended.²⁹

²⁶ Washington Post, February 25 and March 3, 1996; New York Times, February 26 and March 4 and 5, 1996; Kol Israel, March 2, 1996, in FBIS, March 4, 1996. Authors' observations of the Tel Aviv attack.

²⁷ Jerusalem Post, March 14, 1996.

²⁸ Interview with former Assistant Secretary of State Edward Walker, April 29, 2002 and confirmed by Dennis Ross interview.

²⁹ Interview with Israeli official; Interview with Benjamin Netanyahu, May 31, 2002

51. From the beginning of the PA in 1994 to the present day, no PA official or employee, and no member, official, or employee of Fatah, has ever been expelled, censured, fired, or punished for involvement in terrorism. Equally, not a single such person has ever been fired or punished for being too lax in letting Hamas or other groups commit terrorist acts.

52. Equally, Hamas and other groups never took any direct action against PA or PLO interests. There was never a single serious clash or gun battle arising from PA attempts to stop Hamas or Islamic Jihad from staging attacks.

53. If Hamas and other such groups had been strong enough to defy PA and PLO efforts to force them to stop attacking Israel or to take other actions, why did they never dare defy the PA regime until, after their election victory in 2005, they seized control of the Gaza Strip? Because they knew that as long as they just attacked Israel, the PA would leave them alone generally. These were safe actions for them, an understanding based on experience with Arafat and the PA, as well as direct discussions with that leadership.

54. Indeed, Hamas during the 1990s did not see the PA or PLO as an enemy but as a fraternal group that would eventually see Hamas was correct and would follow its leadership. Therefore, even when the PA and PLO did put some pressure on Hamas to stop attacking, the Hamas leadership yielded in order to avoid an irreparable break. This situation, if the PA had chosen to use such leverage, would have made it easier to stop the violence.

55. In a later interview with the BBC, Khalid Mashal, generally considered the most hard-line Hamas leader, explained: "Yes we are different politically [from the PA/PLO] but we agree on many other matters. We agreed about the intifada. We agreed about resistance." The disagreements were not fundamental ones but merely on "interpretations and some political programs."³⁰

56. Mahmoud al-Zahar, another Hamas leader, also stated, in a 2006 interview, a view that reflected the past history of Hamas-PA relations. The PA, he explained, was responsible for any breakdown in security, "Because the PA is responsible for security. If it is not capable of maintaining security it bears the responsibility."³¹

57. Others have spoken in similar terms, Sultan Abu Al-Einen, a Fatah leader in Lebanon, explained that Arafat condemned terrorism publicly while financing it.³²

58. The same principles applied to Arafat's unwillingness to force radical groups to accept or at least not violate the agreements he had made as the Palestinians' leader. Despite Arafat's overwhelming power he did not want to foreclose either his own military option or the possibility of an alliance with Hamas. Israel and the United States had expected that Arafat would force all Palestinians to stop the violence. The more Israel was convinced of Arafat's willingness and ability to guarantee peace, the more concessions it would ultimately give him and the faster the progress toward

³⁰ <http://news.bbc.co.uk/2/hi/programmes/hardtalk/3639093.stm>

³¹ LBC TV (Lebanon) - January 22, 2006 <http://www.memritv.org/clip/en/1008.htm>

³² <http://www.memritv.org/clip/en/2085.htm>

creating a Palestinian state. Arafat's understanding of this process, however, was different. He implied that he was doing Israel a favor by trying to reduce terrorism rather than serving its own interests.

59. Arafat encouraged the masses to fight through the media, speeches, and meetings, while ordering his security forces not to interfere. While not involved in the planning and details of attacks, he clearly controlled the overall strategy and set guidelines for what was permitted. Sakhr Habash, one of the top Fatah leaders, explained, "Since brother Arafat is busy with many...missions, authority was delegated to leaders in the field....However, the leadership of the PA remained the source of authority, and [led] the operations of the Intifada throughout the homeland. I can say for certain that [Arafat] is the ultimate authority for all operations, and whoever thinks otherwise, does not know what is going on."³³

60. An incident that happened in 2000, at the Paris meeting between himself and Israeli Prime Minister Ehud Barak, shows how open and cynical Arafat was about his behavior. At one point, Arafat said he would call some of his police commanders to make a truce. Barak responded, "But these are not the people organizing the violence. If you are serious, then call Marwan Barghouti and Hussein al-Sheikh," high-ranking Fatah officials who were leading the insurgency. Arafat looked at Barak with an expression of innocence, Barak recounted, "as if I had mentioned the names of two polar bears, and said: 'Who?' So I repeated the names, this time with a pronounced,

³³ Al-Hayat al-Jadida, December 7, 2001. Translation in MEMRI, No. 165, December 13, 2001.

clear Arabic inflection...and Arafat again said, 'Who?' Some of his aides burst out laughing. Arafat finally agreed to call the two men later."³⁴ But he did nothing and the shooting continued.

61. Since 1994, the PLO—through the Palestinian Authority (PA)—and the PA itself was the internationally recognized and functioning ruler of almost all of the Gaza Strip and much of the West Bank. It also did have direct control over Area A of the West Bank and over most of the Gaza Strip. On many levels, this situation was clearly obvious and ongoing. The Cairo Agreement defines the PLO as the parent organization of the PA: "The PLO shall inform the Government of Israel of the names of the members of the Palestinian Authority and any change of members. Changes in the membership of the Palestinian Authority will take effect upon an exchange of letters between the PLO and the Government of Israel."³⁵

62. It is vital to understand that a key element in that control was, at times, the decision not to exercise this power and responsibility. In other words, for political and strategic reasons, Yasir Arafat, leader of the PLO and PA, and these two organizations consciously and explicitly decided to appear not to be in control.

63. In the Cairo Agreement, the PLO committed itself under Article 18 to prevent hostile acts toward Israel and Israelis: "Both sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against

³⁴ Barak quoted in Benny Morris, "Camp David and After: An Exchange (1. An Interview with Ehud Barak)," *The New York Review of Books*, June 13, 2001.

³⁵ <http://israelipalestinian.procon.org/view.background-resource.php?resourceID=923>

each other, against individuals falling under the other's authority and against their property, and shall take legal measures against offenders. In addition, the Palestinian side shall take all measures necessary to prevent such hostile acts directed against the Settlements, the infrastructure serving them and the Military Installation Area...."

64. At all times during this period – and certainly in 1996 – Yasir Arafat was the all-powerful and unchallenged leader of the PLO and PA. If he were to order something it would be done, and if he were to order that something not be done it would not be done.

65. Yet if there was any lapse or failure in this effort, Arafat had a number of options. He could take such appropriate steps as: capturing and really punishing the perpetrators; delegitimizing and denouncing them; expelling participating Fatah members; firing PA officials who had not stopped or even cooperated with attacks; and taking actions to persuade the Palestinian people to reject those deeds. By never doing so, Arafat showed that he did not oppose or reject the terror attacks.

66. This situation was particularly clear in 1996, after his election on January 20, winning 85 percent of the vote, gave him a mandate. The large turnout and relatively fair conduct enhanced his legitimacy.³⁶ He was almost equally successful in the

³⁶ For analyses of the election, see Khalil Shikaki, Transition to Liberal Democracy in Palestine: The Peace Process, the National Reconstruction, and Elections (CPRS, Nablus: 1996); Jamal Hilal, "The Elections of the Palestinian Legislative Council: A Preliminary Reading of the Results of the Election," and Islah Jad, "Palestinian Women's Movement and the Elections," [Arabic], al-Siyasa al-Filastiniyya, Vol. 3, No. 10, (Spring 1996); Khalil Shiqaqi (editor), Palestinian Elections: Political Environment, Electoral Behavior, Results, [Arabic], (CPRS, Nablus: 1997), see

Palestinian Legislative Council (PLC) election where Fatah gained two-thirds of the 88 seats.³⁷ A Palestinian magazine explained: "He holds all the reins, he controls all the money, he takes all the decisions...and he, by and large, is the only law whose authority is respected, established and enforced."³⁸

67. In addition to dominating the PA, PLC, and court system, Arafat also controlled two other key Palestinian institutions, Fatah and the PLO. In October 1995, he convened a Fatah congress in Gaza attended by 469 delegates who accepted his policies and nominees to the Central Committee. While Fatah members on the West Bank had held primaries to choose candidates for the PLC elections, Arafat simply ignored the results and named his own slate, most of whom won seats in the general election.

68. The same was true of the PLO in general. At the April 1996 PNC meeting in Gaza he added 6 new members to the Executive Committee and removed anti-Oslo dissidents, ensuring his majority. The next month Arafat held the first Executive Committee meeting on PA soil, replacing the old secretary, who opposed the Oslo agreement, with Abu Mazin.³⁹ Finally, Arafat reaffirmed his control over the PNC by adding to it all 88 PLC members and about 100 more West Bank and Gaza residents who supported him, thus expanding the PNC to 730 members. Since opponents of the

pp. 12-15 for a discussion of the advantages provided by the elections. For a list of all PLC members and an analysis of their views see Barry Rubin, Transformation, op.cit., pp. 206-215.

³⁷ On the Palestinian election law see al-Quds, December 9-12, 1995, in FBIS, December 19, 1995 Supplement.

³⁸ Palestine Times, December 1997.

³⁹ Reuters, May 23, 1996.

Oslo agreement boycotted PLO meetings, this weakened the active opposition and made Arafat's victory easy.

69. Arafat argued consistently for the release of Hamas's spiritual leader, Ahmad Yasin, from an Israeli jail, where he was serving a life sentence for his central role in past attacks. Arafat claimed that Yasin would play a moderating role. In October 1997, Israel released Yasin. Despite Arafat's lavish praise for the Hamas leader,⁴⁰ and gifts, Yasin began urging more attacks⁴¹ leading to another upsurge of terrorism, including a November 4 bombing at a Jerusalem mall killing 4 Israeli civilians and wounding 170.⁴²

70. Arafat refused to restrain Yasin until criticism by the United States and threats from Israel produced another temporary arrest of Hamas and Islamic Jihad members and closure of a Hamas-run newspaper, television station, and charities. Once the pressure was off, all of these measures ended. Even the powerful Yasin, however, did not declare war on the PA or Arafat, showing the ease with which the PA could act when it wished to do so.

71. Arafat's main strategy was to try to co-opt Hamas and other radical, anti-Oslo opposition groups politically while using them as a fighting force to further his

⁴⁰ Yasin was released following a botched Israeli attempt to assassinate a high-ranking Hamas official in Jordan.

⁴¹ Jerusalem Report, October 30, 1997.

⁴² Financial Times, September 5, 1997; Journal of Palestine Studies, Vol. 27, No.2 (Winter 1998), pp. 113-25.

needs.⁴³ This was an old pattern of his, going back to the origins of Fatah's armed attacks on Israel in the 1960s and again in its international terrorist operations in the 1970s. In each case, Arafat ordered attacks camouflaged by pretending they were being done by a separate organization over which he exercised no control.

November 15, 2010

Barry Rubin

⁴³ Al-Dustur, May 24 and 31, 1997.

BARRY RUBIN

PRINCIPAL POSITION

Professor and Director, Global Research in International Affairs (GLORIA) Center, Interdisciplinary University (2001-).

OTHER POSITIONS

Author, Rubin Reports blog, <<http://www.rubinreports.blogspot.com>>

Editor and Publisher, Middle East Review of International Affairs (MERIA) Journal (1996-).

Editor, Turkish Studies (1999-)

Syndicated Middle East columnist, Jerusalem Post (1998-).

Editor, Middle East in Focus series, Palgrave-Macmillan Press.

Editor, Middle East military/strategic series. Taylor & Francis publishers.

Editorial Board, Middle East Quarterly (2006-)

PREVIOUS POSITIONS

Visiting Senior Fellow, Washington Institute for Near East Policy (2007)

Editor and Publisher, Covenant (2006-2009)

Seymour & Lillian Abensohn Visiting Professor in Israel Studies, The American University, (2005-2006)

Deputy Director, BESA Center, Bar-Ilan University (1994-2002).

Professor of Political Science, Bar-Ilan University (1995-1996).

Visiting Professor, Middle East Technical University, Ankara, Turkey, Summer 1995.

Professor, Hebrew University, Rothberg School, 1994-1995.

Senior Fellow, Foreign Policy Institute and professor, Johns Hopkins University SAIS, 1986-1993.

Senior Fellow, Washington Institute for Near East Policy, 1988-1991.

Fulbright Fellow, Haifa and Tel Aviv universities, 1990-91.

Senior Analyst, Orkand Corporation 1986-1990.

Foreign policy adviser, Senate staff, Senator Gary Hart, 1985-86.

Senior Fellow in Middle East Studies, Georgetown University Center for Strategic & International Studies, 1978-1985.

EDUCATION

Georgetown University, PhD, 1978.

Rutgers University, MA, 1974.

Richmond College, BA, Magna cum Laude, 1972.

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"Europe and the Middle East," The Nation, May 15, 1976.

"Media and Middle East Conflict," Middle East Review, Winter 1976.

"International Censorship," Columbia Journalism Review, September-October 1975.

TEACHING

American University, 2005-2006

Democratic Reform in the Middle East; Israel in International Affairs, Spring 2006

Israeli Society, Fall 2005.

Bar-Ilan University, 1995-1996

U.S. Policy and the Middle East seminar (graduate) and Revolutionary Movements in the Middle East seminar, Fall 1995 and Spring 1996.

Hebrew University, 1992-1995

U.S. Policy and the Middle East, Summer 1992, Fall 1994; International Terrorism, Spring 1994; Arab-Israeli Peace Process seminar (graduate), Fall 1994; Spring 1995. Arab-Israeli Peace Process (undergraduate course), Spring 1995; Arab Politics, Spring 1995.

Tel Aviv University, 1991-1994

Spring 1991, Summer 1992, Spring, Summer, and Autumn 1993, Spring, Summer 1994, Israeli Politics; Spring 1991, U.S. Policy and the Middle East.

Haifa University, 1991

Comparative Dictatorships, Spring 1991.

Johns Hopkins SAIS, 1985-1991

Autumn 1991, Terrorism & Counterterrorism; Autumn 1988 and Autumn 1989, History of Terrorism; 1983, 1984, 1985, and spring 1987, the U.S. and the Middle East; co-taught U.S. Foreign Policy Since 1945, summer 1985.

Georgetown University, 1981-1982

School of Foreign Service, Spring 1982, Middle East Politics; Spring 1981, Iran and America.

Anne Arundel Community College, Spring 1977, U.S. History, 2 courses.

Frederick Community College, Fall 1976, U.S. History, 2 courses.

HONORS/GRANTS

Visiting Scholar, Georgetown University (2001-2002)

Senior Fellow, Truman Center, Hebrew University (1989-). Director, Distance Learning Project.

Senior Fellow, Jewish-Arab Center, Haifa University 1994-).

Listed in Outstanding Writers of the Twentieth Century, Outstanding Intellectuals of the 21st Century, Contemporary Authors.

Received grants from Bradley Foundation for a study of American allies (1998-1999), on armed forces of the Middle East (2000-2001), and on Anti-Americanism (2002-2003).

Grantee, BESA Center, Bar-Ilan University (1994-95) for research on Israel's Middle East policy.

Grantee, Leonard Davis Center, Hebrew University (1993-1994) for research on U.S. Middle East policy.

Harry Guggenheim Foundation, PLO policy and terrorism, 1990.

Grantee, U.S. Institute of Peace, 1989-1991, Arab-Israeli peace process.

Listed in Who's Who in America, 1985-86 edition to present. Who's Who in the World, 2000 edition to present.

Director, Johns Hopkins University SAIS program on terrorism funded by the Ford and the Bradley Foundations (1986-1992).

Visiting Fellow, Dayan Center for Middle East Studies, Tel Aviv University, 1987-88.

Council on Foreign Relations/National Endowment for the Humanities, International Affairs Fellow, 1984-85.

USIA Speaking Trip to Middle East and South Asia, 1982.

German Marshall Fund grant for research in Africa, 1980.

World Press Freedom Committee grant, 1978-1979.

National Defense Foreign Language Fellow (Arabic), 1977-78.

LANGUAGES

French, Hebrew, Arabic.

CONSULTING

Consultant, U.S. House of Representatives, Task Force to Investigate Certain Allegations

Concerning the Holding of American Hostages by Iran in 1980 ("October Surprise"), 1992.

Principal Investigator, Regional Conflicts in the Middle East, Office of Net Assessments, Defense Department, 1989-90 (Orkand).

Principal Investigator, Projection of Middle East Politics, Economics, and Military Affairs, U.S. Army, 1988-89 (Orkand).

Co-principal Investigator, The New Generation in Arab Politics, study for U.S. government, 1988-89. (Orkand).

Principal Investigator, Egyptian fundamentalism, for U.S. government, 1988-89. (Orkand)

Senior Analyst, Study on Narcopolitics in Latin America, for the U.S. Department of Defense, 1987-88. (Orkand).

Principal Investigator, Study on Iran's Armed Forces and Persian Gulf Contingencies for U.S. Army. 1986-87. (Orkand).

U.S.-Iran Relations, State Department study, 1982-83.

USSR and the Third World, Defense Department study, 1982-83.

PUBLIC SERVICE

Editor, The Sentinel, quarterly journal of the Baltimore and Ohio Railroad Historical Society (2001-).

International Advisory Board, Centre for Israeli Studies, University College London.

Editorial Board, Turkish magazine of Ari movement.

Vice-President, Association of Americans and Canadians in Israel (1999-2000).